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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JOSHUA A. MARTINEZ,

14 Defendant.  
15

Case No. 2:21-cr-00219-APG-DJA

**MOTION TO MODIFY  
CONDITIONS OF RELEASE**

16  
17 Joshua Martinez respectfully moves the Court to modify his conditions of  
18 release to remove the condition of home detention and replace it with a curfew.

19 On September 10, 2021, the Court ordered Mr. Martinez's release on a  
20 personal recognizance bond with certain conditions, including home detention  
21 with GPS monitoring. ECF No. 13 at 5. Mr. Martinez moves the Court to modify  
22 his bond conditions to remove the home detention condition and replace it with a  
23 curfew, with the curfew hours to be set by Pretrial Services. Mr. Martinez is not  
24 requesting any modification to the extensive travel restriction conditions of his  
25 bond and understands those conditions will remain in effect. *See* ECF No. 13 at 6.  
26

1           The Bail Reform Act permits the judicial officer who presided over the bail  
2 hearing to “at any time amend the order to impose additional or different  
3 conditions of release.” 18 U.S.C. § 3142(c)(3). The BRA mandates that, after  
4 determining an individual can be released on conditions, the judicial officer  
5 release the individual “subject to the least restrictive further condition, or  
6 combination of conditions, that such judicial officer determines will reasonably  
7 assure the appearance of the person as required and the safety of any other  
8 person and the community.” 18 U.S.C. § 3142(c)(1)(B). “Section 3142 does not  
9 seek ironclad guarantees, and the requirement that the conditions of release  
10 ‘reasonably assure’ a defendant’s appearance cannot be read to require  
11 guarantees against flight” or guarantee the safety of the community. *United*  
12 *States v. Chen*, 820 F.Supp. 1205, 1208 (N.D. Cal. 1992).

13           Here, home detention is no longer the “least restrictive” condition that will  
14 reasonably assure Mr. Martinez’s future appearance or the safety of any other  
15 person and the community. Mr. Martinez has been on pretrial release for 6  
16 months. He has complied with all conditions of his pretrial release and has not  
17 incurred any violations. To the extent home detention was imposed to address  
18 Mr. Martinez’s risk of future non-appearance, or a perceived risk to the safety the  
19 community or any other person, specifically Deputy DA Michael Dickerson or  
20 Detective Ken Mead, *see* ECF No. 13 at 6, other conditions adequately address  
21 these concerns now that Mr. Martinez has demonstrated that he will abide by the  
22 terms of any release.

1 Counsel has spoken with Pretrial Services concerning this issue. Pretrial  
2 Services support the requested modification.

3 The government objects to the requested modification.

4 DATED this 25th day of March, 2022.

5 RENE L. VALLADARES  
6 Federal Public Defender

7 By: /s/ Joanne L. Diamond

8 JOANNE L. DIAMOND  
9 Assistant Federal Public Defender  
10 Attorney for Joshua A. Martinez  
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1 UNITED STATES DISTRICT COURT  
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9

Case No. 2:21-cr-00219-APG-DJA

**ORDER**

10 IT IS THEREFORE ORDERED that Mr. Martinez's conditions of release  
11 be modified to remove the home detention condition and replace it with a curfew,  
12 with the curfew hours to be set by Pretrial Services.

13 DATED this \_\_\_\_ day of \_\_\_\_\_ 2022.

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UNITED STATES MAGISTRATE JUDGE  
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